

May 29, 2003

The Honorable Jeb Bush, Governor
State of Florida
The Capitol
Tallahassee, Florida 32399

Dear Governor Bush:

The Florida Association of Counties is writing to express its opposition to SB 676. The bill has far-reaching implications for local governments in their efforts to manage the impacts of growth and protect the natural environment. Specifically, Section 59 of the bill precludes a county from applying any of its regulations to transportation facilities -- as that term is broadly defined by statute -- on the State Highway System. Of particular concern is the preemption of local regulations that are designed to protect the natural environment, preserve community identity, and further the health, safety and welfare of residents.

Such protections are not only recognized as fundamental responsibilities of local government but represent the basic tenets of home rule authority. Unfortunately, Section 59 of SB 676 represents a serious encroachment into the core rights and responsibilities of county government. The preemption language of Section 59 is broad and deep. Not only does the language expressly and absolutely prohibit application of local regulations to the Florida Department of Transportation (FDOT) transportation facilities, but the language even preempts all other general and special laws. Accordingly, any legislative compromises that may have been, or may be, reached through other laws are even preempted.

As with any other type of development, road construction can create significant impacts at the local level. These impacts can vary depending on the size and scale of the project but can include impacts to surface and groundwater resources, trees, wetlands, wildlife habitat, and may have equally detrimental impacts to residential communities and other land uses. To lessen such growth pressures, local governments have adopted a variety of regulatory mechanisms that help control the intensity of development and mitigate the potential nuisances that they can sometimes create. Often the basis of these regulations arise out of a county's comprehensive growth management plan, developed pursuant to Chapter 163, Florida Statutes. These plans are not only approved by the Florida Department of Community Affairs but are reviewed for statutory consistency by the FDOT. These consistency reviews have historically been made by the FDOT to ensure its work program takes into consideration the

policies and regulations of the local government. SB 676, however, is a complete reversal of this practice and allows the FDOT to ignore outright any local efforts designed to protect the community, its residents, and its natural environment.

While the Florida Association of Counties recognizes that the FDOT must comply with a number of state and federal environmental regulations, those regulations do not cover any locally unique resource that may require additional protection. It is for that reason, among others, that counties have adopted growth management plans, land development regulations, and related environmental ordinances to ensure its resources are protected where other regulations may fall short. It should be noted that such measures are not intended to be a hindrance to development or road construction but, rather, are a means for ensuring that growth occurs in a manner that is consistent with the goals and interests of the community.

Historically, FDOT has worked in a cooperative partnership with counties in the development and implementation of its work program. That partnership will no longer exist or be needed if SB 676 is signed into law. The bill will allow FDOT to unilaterally construct roads and other facilities in any community without regard to local regulations, policies, or the interests of its residents. This additional authority is not only unnecessary it's excessive. It will in fact create an adversarial relationship between the FDOT and county governments, where successful transportation projects demand the close cooperation between these two entities. In light of these concerns, the Florida Association of Counties respectfully requests that you either veto SB 676 or include this issue within the call of the upcoming special session, where the current language in Section 59 can be readdressed.

Sincerely,

Mary Kay Cariseo
FAC Executive Director

cc: FAC Executive Committee
Senator Jim Sebesta
Representative David Russell
Secretary Jose Abreu, Florida Department of Transportation